

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 25, 2021

SEAN F. MCVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TAMMIE P.¹,

Plaintiff,

vs.

KILOLO KIJAKAZI, ACTING
COMMISSIONER OF SOCIAL
SECURITY,²

Defendant.

No. 4:20-cv-05127-MKD

**ORDER GRANTING
STIPULATED MOTION FOR
REMAND PURSUANT TO
SENTENCE FOUR OF 42 U.S.C. §
405(g)**

ECF Nos. 20, 21

Before the Court is the parties' Stipulated Motion for Remand, ECF No. 21, requesting remand of the above-captioned matter to the Commissioner for

¹ To protect the privacy of plaintiffs in social security cases, the undersigned identifies them by only their first names and the initial of their last names. *See* LCivR 5.2(c).

² Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi is substituted for Andrew M. Saul as the defendant in this suit. No further action need be taken to continue this suit. *See* 42 U.S.C. § 405(g).

1 additional administrative proceeding pursuant to sentence four of 42 U.S.C. §
2 405(g). Attorney Chad Hatfield represents Plaintiff. Attorney Jeffrey Staples
3 represent Defendant. The parties have consented to proceed before a magistrate
4 judge. ECF No. 6.

5 After consideration, **IT IS HEREBY ORDERED** that:

6 1. The District Court Executive is directed to substitute Kilolo Kijakazi as
7 the Defendant and update the docket sheet.
8 2. The parties' Stipulated Motion for Remand, **ECF No. 21**, is **GRANTED**.
9 3. The above-captioned case be **REVERSED** and **REMANDED** to the
10 Commissioner of Social Security for further administrative proceeding pursuant to
11 sentence four of 42 U.S.C. § 405(g).

12 The parties have stipulated to the following:

13 On remand, the Appeals Council will instruct the ALJ to:

14 • Reevaluate the evidence, particularly the opinion from Robert Smiley,
15 M.D.;
16 • Reevaluate the step-three finding, Plaintiff's allegations, Plaintiff's
17 residual functional capacity and the step-five findings, as necessary;
18 • Offer Plaintiff the opportunity for a new hearing;
19 • Further develop the record as necessary and issue a new decision.

20 *See ECF No. 21 at 1-2.*

1 3. Judgment shall be entered for **PLAINTIFF**.

2 4. Plaintiff's Motion for Summary Judgment, **ECF No. 20**, is **STRICKEN**
3 **AS MOOT**.

4 5. Upon proper presentation, this Court consider Plaintiff's application for
5 fees and expenses under the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

6 The District Court Executive is directed to enter this Order, **enter**
7 **Judgment**, forward copies to counsel, and **CLOSE THE FILE**.

8 DATED August 25, 2021.

9 s/Mary K. Dimke
9 MARY K. DIMKE
10 UNITED STATES MAGISTRATE JUDGE